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REMARKS AND REQUEST FOR RECONSIDERATION

Responsive to the Restriction Requirement of August 10, 2009, Applicants

provisionally elect with traverse to prosecute claims 1-23 and 37-39, identified by the

examiner as Group 1, and drawn to a method of preparing DNA fragments prepared by

the method.

Restriction has been required from among the following three (3) identified claim

groupings:

1) Group I: claims 1-23 and 37-39, drawn to a method of preparing DNA fragments

and fragments prepared by the method;

2) Group II: claims 24, 28, and 31-35, drawn to a cDNA chip and kit; and

3) Group III: claims 27 and 36, drawn to a method of hybridizing nucleic acids.

Restriction has been required under PCT Rules 13.1 and 13.2, ostensibly

because the inventions of Groups I-III do not relate to a single general inventive concept

under PCT Rule 13.1, and lack the same or special technical features under PCT Rule

13.2. Specifically, the examiner considers that the lack of a 'special' technical feature is

due to the lack of a contribution over the prior art in view of Uemori et al (U.S.

2003/0186312) and Hefti et al (U.S. 6,287,776).

However, Applicants respectfully urge that the requirement for restriction is

unwarranted and improper for several reasons.

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First, it is noted that no objection based upon 'lack of unity' was raised during the

International Phase of the corresponding PCT application. This is considered important

since the same standards for 'unity' of 'lack of unity' must apply in all PCT signatory

countries when any PCT application enters the national phase.

Second, in the present application there clearly is 'unity' of invention. A principle

objective of the present invention is to provide short cDNA fragments representative of

an entire genome or transcriptome to be analyzed by DNA hybridization. The 'same or

special technical feature' of the claims is a double-stranded (ds) DNA adapter AA'

containing the first bases only (not the entire sequence) of a type IIS restriction enzyme

(E2 enzyme) recognition sequence.

This adapter is used to isolate a subset of short DNA fragments which can

reconstitute the entire E2 enzyme recognition site upon ligation with the adapter AA'

(see steps b) and c) of method claims 1 to 20). The adapter sequence corresponds to

one end of the short DNA fragments of claims 21-23. The adapter sequences is also

present in the DNA chip which comprises the short DNA fragment (claim 24), in the

hybridization which uses the short DNA fragment/DNA chip (claims 27 and 36) as well

as in the kit of claims 28 and 31-35.

Clearly, this 'same or special technical feature' is neither disclosed nor suggested

by either reference cited by the examiner.

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In particular, Uemore et al (U.S. 2003/0186312) merely discloses a kit containing

a DNA polymerase. Hefti et al (U.S. 6,287,776) merely discloses a DNA chip containing

cDNA fragments.

Hence, in view of all of the above, it is believed that the requirement for

restriction based upon 'lack of unity' is without basis and should be vacated, and that all

claimed aspects of the present application should proceed to examination without

further delay.

Favorable consideration is earnestly solicited.

Respectfully submitted,

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